IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.5838 OF 2004
IN
CRIMINAL APPEAL NO. 1562 OF 2004

Shri Jamba Ramchandra Tirmare .. Applicant

V/s.
The State of Maharashtra .. Respondent.

Mr. R.V. More for the applicant.
Smt. V.R. Bhosale, A.P.P.for the respondent.

CORAM : S.B. MHASE &
ANOOP V.MOHTA, JJ.

DATE : 22ND DECEMBER, 2004.

P.C.

. Heard Mr.R.V. More for the applicant and Smt. V.R. Bhosale, A.P.P. for the respondent.

2. The deceased was the daughter-in-law of the present accused. The applicant and his son, who was the husband of the deceased, were charged under Section 302, 498A r/w section 34 of Indian Penal Code. The other accused i.e. husband of the deceased also died on the same day and therefore, the trial proceeded as against only this applicant. From the dying declaration it appears that on the fateful day there were some altercations by this applicant to the deceased

daughter-in-law on account of insufficiency or shortage of Brinjal Curry, upon which the husband of the deceased started dispute with the deceased and said that since the deceased is not providing proper food, there is no use in keeping the deceased alive and thereby poured kerosene on her and has pushed her, where the kerosene lamp was burning. At that time this applicant was saying that, " set her on fire, set her on fire". It is also revealed from the dying declaration that after the above incident, the deceased husband also poured kerosene on his person and embarrassed the deceased and this applicant tried to rescue the husband of the deceased i.e. his son, who died thereafter. In this process, the applicant has received 60% burn injuries. We find that the accused has tried to save his son, though he has not tried to save the life of the deceased daughter-in-law. However, the offence under Section 498A, there is acquittal and the conviction is under section 302 r/w section 109 of Indian Penal Code. However, the charge was not under Section 302 r/w section 109. It was distinct charge under section 302 along with 498A r/w 34 of Indian Penal Code. All this persuades us to grant suspension of sentence. The applicant was on bail during the trial and he has not

mis utilised the bail.

3. The sentence passed by III Additional Sessions Judge, Sangli, in Sessions Case No.214 of 1996, dated 20/11/2004 is hereby suspended till the hearing of the appeal. The applicant be released on bail on his furnishing P.R.bond of Rs. 10,000/- with one surety in the like amount. The applicant/accused shall attend the concerned police station once in a month, preferably 1st day of the month between 10 to 11 a.m.

[ANOOP V. MOHTA, J.] **[S.B.MHASE, J.]**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPEAL NO. 1562 OF 2004

Shri Jamba Ramchandra Tirmare .. Appellant

V/s.

The State of Maharashtra .. Respondent.

Mr. R.V. More for the appellant.
Smt. V.R. Bhosale, A.P.P.for the respondent.

CORAM : S.B. MHASE &
ANOOP V.MOHTA, JJ.

DATE : 22ND DECEMBER, 2004.

P.C.

. Heard. Admit.

[ANOOP V. MOHTA, J.] **[S.B.MHASE, J.]**